

HOUSE BILL 879

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E4

2003 Regular Session
(3r1869)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Vallario, Bohanan, Brown, Carter, Gutierrez,
Hutchins, O'Donnell, Simmons, Wood, and Zirkin**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Government - State Law Enforcement Officers - Application for Lost**
3 **Pay and Attorneys' Fees**

4 FOR the purpose of eliminating a requirement to have the Attorney General or the
5 Attorney General's designee make a determination of the applicant's good faith
6 under certain circumstances; requiring the Board of Public Works to reimburse
7 certain State law enforcement officers that have applied for lost back pay and
8 reasonable attorneys' fees after having been investigated for or charged with
9 criminal charges under certain circumstances, if the investigation has concluded
10 and criminal charges have not been filed against the officer or if certain final
11 dispositions of all of the charges occur; eliminating a requirement to have the
12 Attorney General or the Attorney General's designee make a determination of
13 the applicant's good faith under certain circumstances; requiring authorizing
14 the Board of Public Works to approve payment of lost wages and reasonable
15 attorneys' fees resulting from a certain suspension without pay to an applicant
16 from a State law enforcement agency under certain circumstances; prohibiting

1 the Board from approving certain payments under certain circumstances;
 2 providing for the application of this Act; and generally relating to an application
 3 to the Board by a State law enforcement officer for lost back pay or reasonable
 4 attorneys' fees under certain circumstances.

5 BY repealing and reenacting, without amendments,
 6 Article - Public Safety
 7 Section 3-112(c)
 8 Annotated Code of Maryland
 9 (As enacted by Chapter _____(S.B. 1) of the Acts of the General Assembly of
 10 2003)

11 ~~BY repealing and reenacting, with amendments,~~
 12 ~~Article - State Government~~
 13 ~~Section 12-314 and 12-315~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(1999 Replacement Volume and 2002 Supplement)~~

16 BY repealing and reenacting, with amendments,
 17 Article - State Government
 18 Section 12-315
 19 Annotated Code of Maryland
 20 (1999 Replacement Volume and 2002 Supplement)

21 BY repealing and reenacting, without amendments,
 22 Article - State Government
 23 Section 12-314 and 12-315
 24 Annotated Code of Maryland
 25 (1999 Replacement Volume and 2002 Supplement)

26 BY adding to
 27 Article - State Government
 28 Section 12-315.1
 29 Annotated Code of Maryland
 30 (1999 Replacement Volume and 2002 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 32 MARYLAND, That the Laws of Maryland read as follows:

33 **Article - Public Safety**

34 3-112.

35 (c) (1) If a law enforcement officer is charged with a felony, the chief may
 36 impose an emergency suspension of police powers without pay.

1 (2) A law enforcement officer who is suspended under paragraph (1) of
2 this subsection is entitled to a prompt hearing.

3 **Article - State Government**

4 12-314.

5 Subject to the limitations in this Part III of this subtitle, the Board of Public
6 Works ~~may~~ **SHALL** approve reimbursement of a State officer or State employee or
7 otherwise pay for ~~LOST WAGES AND~~ reasonable counsel fees that the officer or
8 employee incurred:

9 (1) in connection with a criminal investigation into conduct as an officer
10 or employee if the investigation has concluded and criminal charges have not been
11 filed against the officer or employee; or

12 (2) in defending against criminal charges that related to conduct as an
13 officer or employee if final disposition of all of the charges does not result in a plea of
14 nolo contendere, a guilty plea, or a finding of guilt.

15 12-315.

16 (a) The Board of Public Works may not provide reimbursement or payment
17 under this Part III of this subtitle unless:

18 (1) the State officer or State employee submits to the Board a written
19 application for reimbursement; and

20 (2) the Attorney General certifies that:

21 (i) the applicant retained counsel;

22 (ii) the applicant gave the Attorney General written notice
23 promptly after counsel was retained; and

24 (iii) ~~EXCEPT AS PROVIDED IN § 12-315.1 OF THIS SUBTITLE, EXCEPT~~
25 ~~AS PROVIDED IN § 12-315.1 OF THIS SUBTITLE,~~ after review of the evidence and other
26 information, the Attorney General or a designee appointed under this section made
27 the following determinations:

28 1. in connection with the matter under criminal
29 investigation, the applicant discharged the public responsibilities in good faith, did
30 not engage in unlawful conduct, and was reasonable in retaining counsel and
31 incurring the counsel fees for which reimbursement is sought; or

32 2. in connection with the matter that was the subject of
33 criminal charges, the applicant discharged the public responsibilities in good faith
34 and incurred reasonable counsel fees.

1 (b) Notwithstanding subsection (a)(2)(ii) of this section, the Board of Public
2 Works may approve reimbursement to an applicant who fails to give the Attorney
3 General notice promptly after counsel is retained if the Board determines that the
4 failure is for good cause.

5 (c) If the Attorney General believes that it would be inappropriate for the
6 Attorney General to make the determinations under subsection (a)(2)(iii) of this
7 section, the Attorney General or the Board of Public Works may designate other
8 counsel to carry out that duty.

9 (d) The determinations of the Attorney General or designee under this section
10 are not subject to judicial review.

11 12-315.1.

12 (A) ~~THE SUBJECT TO THE LIMITATIONS OF SUBSECTION (B) OF THIS SECTION~~
13 ~~AND § 12-315 OF THIS SUBTITLE, THE BOARD OF PUBLIC WORKS SHALL MAY APPROVE~~
14 ~~PAYMENT OF LOST WAGES AND REASONABLE ATTORNEYS' FEES RESULTING FROM A~~
15 ~~SUSPENSION WITHOUT PAY TO AN APPLICANT FROM A STATE LAW ENFORCEMENT~~
16 ~~AGENCY UNDER THIS SUBTITLE, LESS ANY AMOUNT FOR LOST ~~PAY~~ WAGES~~
17 ~~RESULTING FROM AN UNRELATED ADMINISTRATIVE SUSPENSION OR DISCIPLINARY~~
18 ~~ACTION, IF:~~

19 (1) THE SUSPENSION WITHOUT PAY OCCURRED AS A RESULT OF ONE OR
20 MORE CRIMINAL CHARGES AGAINST THE APPLICANT; AND

21 (2) THE FINAL DISPOSITION OF EACH CRIMINAL CHARGE AGAINST THE
22 APPLICANT RESULTED IN A DISMISSAL, NOLLE PROSEQUI, OR AN ACQUITTAL.

23 (B) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE PAYMENT UNDER THIS
24 SECTION IF:

25 (1) THE APPLICANT IS TERMINATED FROM EMPLOYMENT WITH THE
26 STATE LAW ENFORCEMENT AGENCY AS A RESULT OF AN ADMINISTRATIVE
27 PROCEEDING RESULTING FROM THE SAME CRIMINAL CHARGES; OR

28 (2) THE APPLICANT RESIGNS FROM THE APPLICANT'S POSITION WITH
29 THE STATE LAW ENFORCEMENT AGENCY BEFORE RESUMING DUTIES FOR PAY.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
31 construed to apply retroactively and shall be applied to and interpreted to affect any
32 application for payment for lost wages or attorneys' fees described in this Act filed on
33 or after September 25, 2000.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2003.

